

## § 137.1

## 42 CFR Ch. I (10–1–02 Edition)

- agree with the recommended decision resulting from the informal conference?
- 137.426 May an Indian Tribe get an extension of time to file a notice of appeal?
- 137.427 What happens after an Indian Tribe files an appeal?
- 137.428 How is a hearing arranged?
- 137.429 What happens when a hearing is necessary?
- 137.430 What is the Secretary's burden of proof for appeals covered by § 137.145?
- 137.431 What rights do Indian Tribes and the Secretary have during the appeal process?
- 137.432 What happens after the hearing?
- 137.433 Is the recommended decision always final?
- 137.434 If an Indian Tribe objects to the recommended decision, what will the Secretary do?
- 137.435 Will an appeal adversely affect the Indian Tribe's rights in other compact, funding negotiations, or construction project agreements?
- 137.436 Will the decisions on appeal be available for the public to review?

### APPEALS OF AN IMMEDIATE REASSUMPTION OF A SELF-GOVERNANCE PROGRAM

- 137.440 What happens in the case of an immediate reassumption under section 507(a)(2)(C) of the Act [25 U.S.C. 458aaa-6(a)(2)(C)]?
- 137.441 Will there be a hearing?
- 137.442 What happens after the hearing?
- 137.443 Is the recommended decision always final?
- 137.444 If a Self-Governance Tribe objects to the recommended decision, what action will the Secretary take?
- 137.445 Will an immediate reassumption appeal adversely affect the Self-Governance Tribe's rights in other self-governance negotiations?

### EQUAL ACCESS TO JUSTICE ACT FEES

- 137.450 Does the Equal Access to Justice Act (EAJA) apply to appeals under this subpart?

AUTHORITY: 25 U.S.C. 458 *et seq.*

SOURCE: 67 FR 35342, May 17, 2002, unless otherwise noted.

## Subpart A—General Provisions

### § 137.1 Authority, purpose and scope

(a) Authority. These regulations are prepared, issued and maintained with the active participation and representation of Indian Tribes, Tribal organizations and inter-Tribal consortia pursuant to the guidance of the negotiated rulemaking procedures required by section 517 of the Act [25 U.S.C. 458aaa-16].

(b) Purpose. These regulations codify rules for self-governance compacts, funding agreements, and construction project agreements between the Department of Health and Human Services (DHHS) and Self-Governance Tribes to implement sections 2, 3, and 4 of Pub. L. 106-260.

(c) Scope. These regulations are binding on the Secretary and on Indian Tribes carrying out programs, services, functions, and activities (or portions thereof) (PSFAs) under Title V except as otherwise specifically authorized by a waiver under section 512(b) of the Act [25 U.S.C. 458aaa-11(b)].

(d) Information collection. The information collection requirements have been submitted to the Office of Management and Budget (OMB) and are pending OMB approval.

### § 137.2 Congressional policy.

(a) According to section 2 of Pub. L. 106-260, Congress has declared that:

(1) The Tribal right of self-government flows from the inherent sovereignty of Indian Tribes and nations;

(2) The United States recognizes a special government-to-government relationship with Indian Tribes, including the right of the Indian Tribes to self-governance, as reflected in the Constitution, treaties, Federal statutes, and the course of dealings of the United States with Indian Tribes;

(3) Although progress has been made, the Federal bureaucracy, with its centralized rules and regulations, has eroded Tribal Self-Governance and dominates Tribal affairs.

(4) The Tribal Self-Governance Demonstration Project, established under title III of the Indian Self-Determination Act (ISDA) [25 U.S.C. 450f note] was designed to improve and perpetuate the government-to-government relationship between Indian Tribes and the United States and to strengthen Tribal control over Federal funding and program management;

(5) Although the Federal Government has made considerable strides in improving Indian health care, it has failed to fully meet its trust responsibilities and to satisfy its obligations to the Indian Tribes under treaties and other laws; and